

§ 3715.5

§ 3715.5 What standards apply to my use or occupancy?

(a) Your use or occupancy must be reasonably incident. In all uses and occupancies, you must prevent or avoid “unnecessary or undue degradation” of the public lands and resources.

(b) Your uses must conform to all applicable federal and state environmental standards and you must have obtained all required permits before beginning, as required under 43 CFR part 3800. This means getting permits and authorizations and meeting standards required by state and federal law, including, but not limited to, the Clean Water Act (33 U.S.C. 1251 *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), and the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), as required under 43 CFR part 3800.

(c) Your occupancies must conform to all applicable federal and state environmental standards and you must have obtained all required permits before beginning, as required under this subpart and 43 CFR part 3800. This means getting permits and authorizations and meeting standards required by state and federal law, including, but not limited to, the Clean Water Act (33 U.S.C. 1251 *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), and the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), as required under this subpart and 43 CFR part 3800.

(d) If your prospecting or exploration activities involve only surface activities, you must not place permanent structures on the public lands. Any temporary structures you place on the public lands during prospecting or exploration will be allowed only for the duration of the activities, unless BLM expressly and in writing allows them to remain longer. If your prospecting or exploration activities involve subsurface activities, you may place permanent structures on the public lands, if BLM concurs.

(e) All permanent and temporary structures you place on the public lands must conform with the applicable state or local building, fire, and electrical codes, and occupational safety and health and mine safety standards. If state or local codes require, you must obtain a certificate of occupancy or its equivalent before you begin use

43 CFR Ch. II (10–1–08 Edition)

or occupancy involving permanent structures. If state or local law requires, you must also acquire appropriate sewerage and sanitation permits before the occupancy or use of a permanent structure placed on the public lands.

§ 3715.5–1 What standards apply to ending my use or occupancy?

Unless BLM expressly allows them in writing to remain on the public lands, you must remove all permanent structures, temporary structures, material, equipment, or other personal property placed on the public lands during authorized use or occupancy under this subpart. You have 90 days after your operations end to remove these items. If BLM concurs in writing, this provision will not apply to seasonal operations that are temporarily suspended for less than one year and expected to continue during the next operating season or to operations that are suspended for no longer than one year due to market or labor conditions.

§ 3715.5–2 What happens to property I leave behind?

Any property you leave on the public lands beyond the 90-day period described in § 3715.5–1 becomes property of the United States and is subject to removal and disposition at BLM’s discretion consistent with applicable laws and regulations. You are liable for the costs BLM incurs in removing and disposing of the property.

§ 3715.6 What things does BLM prohibit under this subpart?

Except where other applicable laws or regulations allow, BLM prohibits the following:

(a) Placing, constructing, maintaining or using residences or structures for occupancy not meeting:

(1) The conditions of occupancy under §§ 3715.2 or 3715.2–1; or

(2) Any of the standards of occupancy under § 3715.5;

(b) Beginning occupancy before the filing, review, and approval or modification of a plan of operation as required under 43 CFR part 3800, subparts 3802 or 3809;

(c) Beginning occupancy before consultation with BLM as required by

Bureau of Land Management, Interior

§3715.7-1

§3715.3 for activities that do not require a plan of operations under 43 CFR part 3800, subpart 3802 or that are defined as casual use or notice activities under 43 CFR part 3800, subpart 3809;

(d) Beginning occupancy without receiving a determination of concurrence because the proposed occupancy or fencing will not conform to the provisions of §3715.2, §3715.2-1 or §3715.5;

(e) Not complying with any order issued under this subpart within the time frames the order provides;

(f) Preventing or obstructing free passage or transit over or through the public lands by force, threats, or intimidation; provided, however, that reasonable security and safety measures in accordance with this subpart are allowed;

(g) Placing, constructing, or maintaining enclosures, gates, or fences, or signs intended to exclude the general public, without BLM's concurrence;

(h) Causing a fire or safety hazard or creating a public nuisance;

(i) Not complying with the notification and other requirements under §3715.4 relating to an existing occupancy; and

(j) Conducting activities on the public lands that are not reasonably incident, including, but not limited to: non-mining related habitation, cultivation, animal maintenance or pasturage, and development of small trade or manufacturing concerns; storage, treatment, processing, or disposal of non-mineral, hazardous or toxic materials or waste that are generated elsewhere and brought onto the public lands; recycling or reprocessing of manufactured material such as scrap electronic parts, appliances, photographic film, and chemicals; searching for buried treasure, treasure trove or archaeological specimens; operating hobby and curio shops; cafes; tourist stands; and hunting and fishing camps.

§3715.7 How will BLM inspect my use or occupancy and enforce this subpart?

(a) BLM field staff is authorized to physically inspect all structures, equipment, workings, and uses located on the public lands. The inspection may include verification of the nature of your use and occupancy to ensure

that your use or occupancy is, or continues to be, reasonably incident and in compliance with §§3715.2, 3715.2-1, 3715.4-1 and 3715.5.

(b) BLM will not inspect the inside of structures used solely for residential purposes, unless an occupant or a court of competent jurisdiction gives permission.

§3715.7-1 What types of enforcement action can BLM take if I do not meet the requirements of this subpart?

BLM has four types of orders that it can issue depending on the circumstances:

(a) *Immediate suspension.* (1) BLM may order an immediate, temporary suspension of all or any part of your use or occupancy if:

(i) All or part of your use or occupancy is not reasonably incident or is not in compliance with §§3715.2, 3715.2-1, 3715.3-1(b), 3715.5 or 3715.5-1, and

(ii) an immediate, temporary suspension is necessary to protect health, safety or the environment.

(2) BLM will presume that health, safety or the environment are at risk and will order your use or occupancy to be immediately and temporarily suspended if:

(i) You are conducting an occupancy under a determination of concurrence under this section; and

(ii) You fail at any time to meet any of the standards in §3715.3-1(b) or §3715.5(b), (c), or (e).

(3) The suspension order will describe—

(i) How you are failing or have failed to comply with the requirements of this subpart; and

(ii) The actions, in addition to suspension of the use or occupancy, that you must take to correct the non-compliance and the time by which you must suspend the use or occupancy. It will also describe the time, not to exceed 30 days, within which you must complete corrective action.

(4) The suspension order will not be stayed by an appeal.

(b) *Cessation order.* (1) BLM may order a temporary or permanent cessation of all or any part of your use or occupancy if:

(i) All or any part of your use or occupancy is not reasonably incident but